

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

UNITED STATES OF AMERICA)
) CRIMINAL NO.: 4:15-cr-00868-RBH-2
vs.)
BRIAN KEITH PERDUE,)
)
Defendant.)
)

**MOTION FOR DISCOVERY
AND INSPECTION AND
OTHER LISTED MOTIONS**

Now comes the Defendant, Brian Keith Perdue, by and through his undersigned attorney, and does hereby move the Court for discovery and inspection as set forth herein. The Defendant specifically moves for the Court to order disclosure of all evidence or information presently in the possession of the U.S. Attorney, or any other federal, state, or local law enforcement agency, which could tend to show that the Defendant is not guilty of the charges against him or which could tend to mitigate punishment, if convicted. This motion is made under the authority of *Brady vs. Maryland*, 373 U.S. 83 (1963), and *Giglio vs. United States*, 405 U.S. 150 (1972). Further, if the Government has any of the below-requested items or items required by the rules, law, or Court Order, but refuses to provide them to the defense, the Defendant requests a statement from the Government as to the existence of the items and their refusal to provide them.

Defendant requests production of the following:

1. Any and all written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the Government, the existence of which is known, or by exercise of due diligence should be known or may become known, to the attorney for the Government. This request includes, but is not limited to, any rough notes, records, reports, transcripts, audio recordings, video recordings, or other documents and tapes in which statements of the Defendant are contained.

2. The substance of any oral statements which the Government intends to offer in evidence at the trial made by the Defendant and all statements, confessions or notes taken as a result of discussions with any witness(es), suspect(s) or Defendant concerning this case.

3. The complete arrest and conviction records of the Defendant.

4. All books, papers, documents, photographs, videos, audio, or tangible objects which are in the possession, custody or control of the Government, and are relevant to this case, including any handwritten notes taken by any investigating agents.

5. The results or reports of physical or mental examinations, of scientific, laboratory or analytical tests or experiments, or copies thereof, which are within the possession, custody or control of the Government, the existence of which is known, or by the exercise of due diligence should be known or may become known to the attorney for the Government.

6. All evidence favorable to the Defendant, or which would be helpful in the preparation of a defense or in mitigation of punishment. This includes, but is not limited to the following:

- a. All information relevant to the credibility of any Government witness;
- b. All names, addresses and telephone numbers of all witnesses the Government intends to call or may call to testify at the trial of the case;
- c. All information concerning the conduct, character and reputation of any such witness which is relevant to his or her truthfulness or untruthfulness;
- d. The complete arrest and conviction record of all witnesses which the Government intends to call or may call to testify at the trial of the case;
- e. The substance of any agreement, or proposed agreement, either oral or written, made in the name of the Government of the United States to any Government witness, the subject of which deals either directly or indirectly with promise of favored treatment or leniency in return for either pleas of guilty, nolo contendere or favorable testimony in this case or any other criminal or civil litigation or sentencing procedure;

- f. All evidence tending to show that any acts or conduct by the Defendant were done without criminal intent; This request specifically includes any information which could show that at the time of any alleged act, that the Defendant was neither present, mentioned or involved directly or indirectly;
- g. All names, present addresses and telephone numbers of persons who have knowledge of the existence of any evidence which might be relevant to acts charged as a crime in the Indictment against the Defendant, including all persons who the Government intends to call or may call to testify at the trial of the case; and
- h. The transcript of testimony of any and all persons who testified before the Grand Jury in this case and all other grand jury materials.

7. All statements of witnesses producible under Title 18, United States Code, Section 3500, the Jencks Act, at least seventy-two (72) hours prior to trial.

8. Statements of all persons, written or otherwise, regardless of whether the Government plans to call the witness as a witness at trial. This request includes statements made to witnesses other than police officers at any time Defendant was in custody as well as the precise words attributed to the defendant which caused government agents to conclude that Defendant was “associated” with other Co-Defendants;

9. The name, identity and whereabouts of any informer who gave information leading to the arrest of Defendant, or Co-Defendants, and whether said information was paid for by the Government;

10. Pursuant to the provisions of 18 U.S.C. § 2518(9), any and all recordings and records relating to intercepted wire or oral communications and/or any evidence discovered therefrom;

11. Any and all fingerprint impressions, blood samples, clothing, hair, fiber or other materials obtained by whatever means or process pertaining to any Defendants or some other person known or unknown.

12. The written report of any chemical analysis of any material seized in this investigation, together with any descriptions, test results, test dates, and any determinations as to the nature or weight of said substance.

13. A list of all physical evidence found, seized or inventoried and all photographs taken in regard to the investigation of this case.

14. Any and all tangible objects obtained during the investigation in this case, including:

- (a) tangible objects obtained from Defendant's person or effects;
- (b) tangible objects obtained from the person or effects of Co-Defendants; and
- (c) tangible objects obtained from the person, effects, or vehicle driven by co-defendant;

15. All arrest reports, investigator's notes, memos from arresting officers, sworn statements, and prosecution reports pertaining to the Defendant. This request includes affidavits in support of search warrants and any witness interview notes that could be considered to be statements attributable to the witness.

16. Any and all material now known to the government, or which may become known, or which through due diligence may be learned from investigating officers or the witnesses or persons having knowledge of this case, which is exculpatory in nature or favorable material or which might serve to mitigate punishment, and including any evidence impeaching or

contradicting testimony of government witnesses or instructions to government witnesses not to speak with or discuss the facts of the case with defense counsel.

17. The Defendant further moves for:

- (a) Production of Statements by Co-Defendants and Co-Conspirators;
- (b) Leave to File Additional Motions;
- (c) Access to Prospective Government Witnesses; and
- (d) Disclosure of Rule 404 Evidence.

WHEREFORE, Defendant moves this Court to order production of the above-described items, and for such other and further relief as this Court deems just and proper.

/s/Ashley B. Nance
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